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/Neil A. DuChez/
Neil A. DuChez

January 5, 2010
Date

KBLDP0106US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Keene

Art Unit: 3635

Serial No: 10/623,936

Examiner: Robert Canfield

Filed: July 21, 2003

Confirmation No.: 6475

For: WEEP VENTING SYSTEM FOR MASONRY WALLS

RENEWED PETITION UNDER 37 C.F.R. 1.137(b)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1345

Sir:

This is a Renewed Petition for Revival under 37 C.F.R. 1.137(b).

The Decision mailed December 7, 2009 dismissed the Applicant's Petition for Revival under 37 C.F.R. 1.37(b) due to the fact that the Applicant had not provided a statement indicating that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." The required statement is provided with this renewed petition.

Enclosed is a declaration from the Applicant, James R. Keene, wherein Mr. Keene indicates the entire delay from abandonment of the application on September 29, 2005 to the filing of the petition for revival on August 19, 2009 was unintentional. In the Declaration, Mr. Keene provides a chronology relating to the events that led to the abandonment of the application and the unintentional delay in filing the petition for revival of the application.

During the period from March 21, 2005 until December 31, 2007, the Applicant was represented by attorney Justin S. Rerko (Reg. No. 53,510). Mr. Rerko filed an Amendment and Request for Extension of Time on April 1, 2005. Mr. Rerko also filed a Petition to Withhold the Holding of Abandonment under 37 C.F.R. 1.181(a), and an Amendment After Final Rejection under 37 C.F.R. 1.116, on March 15, 2006. The petition to withhold was dismissed by the USPTO on April 11, 2006.

The Applicant had been relying on Mr. Rerko to maintain copies of the application papers. Mr. Rerko did not provide the Applicant with copies of any of the documentation that he had filed in the USPTO. Mr. Rerko did not inform the Applicant that the application had gone abandoned.

Mr. Rerko's license to practice law in the state of Ohio was suspended on December 3, 2007.

In December of 2007, the Applicant consulted with attorney Ramon D. Foltz (Reg. No. 24,162) regarding the application. Mr. Foltz informed the Applicant that since the application was unpublished, the Applicant would have to contact the Patent Office directly in order to obtain the serial number, filing date and title of the application. The Applicant

obtained this information in December of 2007. The Applicant thereafter revoked the power of attorney for Mr. Rerko and issued a power of attorney to Mr. Foltz. The power of attorney for Mr. Foltz was accepted by the USPTO on January 14, 2008. Mr. Foltz thereafter became ill and was not able to represent the Applicant.

The Applicant attempted to contact Mr. Rerko by telephone, but Mr. Rerko did not return his calls. In April of 2008, the Applicant had several exchanges of emails with Mr. Rerko. The Applicant requested information concerning the status of the application and copies of the documents that had been filed in the USPTO by Mr. Rerko. The Applicant was unable to obtain the requested information or documents from Mr. Rerko.

The Applicant then requested the undersigned attorney, Neil A. DuChez (Reg. No. 26,725) to take over representation for the application. The power of attorney for the undersigned attorney was filed in the USPTO on May 6, 2009. After filing of the power of attorney, the undersigned attorney obtained copies of the application papers from the private PAIR website of the USPTO. It was at that time that the Applicant discovered that the application had gone abandoned. The Applicant then instructed the undersigned attorney to file the appropriate papers in the USPTO to revive the application. This was done with the Petition for Revival Under 37 C.F.R. 1.137(b), RCE and Response to Final Rejection that were filed by the undersigned attorney on August 19, 2009.

The entire delay from the abandonment of the application on September 29, 2005 to the filing of the Petition for Revival Under 37 C.F.R. 1.37 (b) on August 19, 2009 was unintentional.

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It is respectfully requested that the application be revived and that the Response to Final Rejection filed with the petition for revival be considered on its merits.

If there are any fees required for the filing of this documentation, such fees can be charged to Deposit Account No. 18-0988.

If there are any issues that the Examiner would like to discuss with the undersigned attorney, it is suggested that he contact the undersigned attorney by telephone.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

By


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